

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

**UNITED STATES OF AMERICA,**

**v.**

**PETER LE, et al.**

**Defendant.**

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**Case No: 1:19-cr-00057-LO**

**Defendant's Motion to Dismiss Count 1, Paragraphs (2) (3) (7) and (12)  
and Counts 24 and 25 of the Third Superseding Indictment  
As Said Counts and Paragraphs Violate 21 U. S. C. § 812(b)(1).**

COMES NOW defendant Spencer Pak, by and through counsel, Alan J. Cilman, and respectfully moves this Court to dismiss the charges set forth in Count 1, paragraphs 2, 3, 7 and 12, and, Counts 24 and 25 of the third superseding indictment. As grounds for this motion, Defendant states:

1. Count 1, paragraph 2 charges that Defendant Spencer Pak conspired “to unlawfully, knowingly and intentionally distribute one hundred kilograms or more of marijuana, a Schedule I, controlled substance”;
2. Count 1, paragraph 3 charges that Defendant Spencer Pak conspired “to unlawfully, knowingly and intentionally distribute a mixture and substance containing a detectable amount of tetrahydrocannabinol (THC), a Schedule I, controlled substance”;
3. Count 1, paragraph 7 charges that Defendant Spencer Pak conspired “to unlawfully, knowingly and intentionally manufacture, distribute and possess with the intent to manufacture and distribute 1,000 or more marijuana plants”;

4. Count 1, paragraph 12 charges that Defendant Spencer Pak conspired “to unlawfully, knowingly and intentionally sell drug paraphernalia and to use the mails and other facilities of interstate commerce to transport drug paraphernalia, that is, devices for use in compounding, converting, concealing, producing, processing, preparing, ingesting, inhaling, or otherwise introducing into the human body unlawful controlled substances, including THC and marijuana and products derived from marijuana”;
5. Count 24 charges that Defendant Spencer Pak “knowing that he was an unlawful user of a (sp.) marijuana, a controlled substance, did unlawfully and knowingly possess, in and affecting commerce, a firearm, that is, a semiautomatic rifle, said firearm having travelled in interstate and foreign commerce”;
6. Count 25 charges that Defendant Spencer Pak “knowing that he was an unlawful user of marijuana, a controlled substance, did unlawfully and knowingly possess, in and affecting commerce, a firearm, that is, a semiautomatic pistol, said firearm having travelled in interstate and foreign commerce”;
7. Marijuana does not meet the requirements of schedule I and is illegally and/or improperly classified;
8. Marijuana does not have a high potential for abuse;
9. Marijuana has been approved for medical use in the thirty-three states, Guam, Puerto Rico, and the District of Columbia;
10. Marijuana has been legalized for recreational use in Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington and Washington, D.C.;
11. The Attorney General has failed to remove marijuana from schedule I;

12. THC does not meet the requirements of schedule I and is illegally and/or improperly classified;
13. THC does not have a high potential for abuse;
14. THC has been approved for medical use in the thirty-three states, Guam, Puerto Rico, and the District of Columbia;
15. THC has been legalized for recreational use in Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington and Washington, D.C.;
16. The Attorney General has failed to remove marijuana from schedule I;
17. Such other and further grounds as may become apparent at the hearing on this motion.

Respectfully Submitted

Spencer Pak  
By Counsel

s/Alan J. Cilman  
Alan J. Cilman  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 19<sup>th</sup> day of September 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

James Trump, AUSA and the other attorneys of record on behalf of the United States  
Office of the United States Attorney  
2100 Jamieson Avenue  
Alexandria, VA 22314

and, each of the attorneys of record for the co-defendants.

\_\_\_\_\_/s/\_\_\_\_\_  
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